

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1559 of 2016 (O&M)
Date of Decision: **March 16, 2016**

Uttar Pradesh State Roadways Transport Corporation
...Appellant

Versus

Smt.Pinki and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.Sandeep Kotla, Advocate
for the appellant.

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HARINDER SINGH SIDHU, J.

On 27.11.2014, Tula Ram, aged 27 years (deceased) along with his neighbour Shyam Lal was going to Delhi by car bearing No.HR-85AE-9546 driven by himself. Near Mundkati Chowk on NH-2, it was hit by bus bearing No.UP-85U-9098, as a result of which, Tula Ram suffered multiple injuries and died on the spot.

The legal heirs of the deceased filed claim petition before the MACT, Palwal, which assessed the income of the deceased at Rs.6000/- treating him to be a labourer, added 50% towards future prospects and also quantified compensation separately under different heads. A total compensation of Rs.14,07,000/- was awarded, payable by the appellant.

Challenging the award, Ld. Counsel for the appellant has contended that the accident took place due to contributory negligence of the drivers of both the vehicles and, thus, the appellant could not be held solely liable to pay the compensation. It is stated that there was a diversion on the road and one way traffic was there and the car driver came from the

opposite side and hit the bus. He has also questioned the assessment of income of the deceased at Rs.6000/- per month.

So far as the allegation of contributory negligence on the part of the deceased is concerned, the FIR regarding the accident was registered on the same day specifically giving the registration number of the bus as the offending vehicle. The author of the FIR Shyam Lal appeared as PW2 before the Tribunal and narrated the manner of accident stating that the bus was coming from Palwal side and was being driven in a rash, careless, reckless manner, at a very high speed without observing the traffic rules and hit the car from front side. He also disclosed that after the accident the driver of the offending bus had run away leaving the bus at the spot. No witness was produced by the appellant to falsify or controvert the version of PW2.

Now, coming to the assessment of the income of the deceased, though, it was claimed in the claim petition that the deceased was a driver by profession, but the Tribunal in the absence of any documentary proof regarding his job, treated him as a labourer. The accident had taken place in November, 2014 and, considering the economic situation, the assessment of income @ Rs.6000/- per month for a labourer cannot be said to be on higher side.

Hence, finding no scope for interference, the appeal is dismissed.

March 16, 2015

**(HARINDER SINGH SIDHU)
JUDGE**

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